

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

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THE PEOPLE,

Plaintiff and Respondent,

v.

JACK EARL WEED III,

Defendant and Appellant.

C074074

(Super. Ct. No. 12F5112)

Appointed counsel for defendant Jack Earl Weed III asked this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) Finding no arguable error that would result in a disposition more favorable to defendant, we will affirm the judgment.

I

Defendant entered the home of M.H. on July 31, 2012, with the intent to commit a felony. Another person was present in the home when defendant entered.

Defendant pleaded no contest to first degree burglary. (Pen. Code, § 459.)<sup>1</sup> He admitted that a person other than an accomplice was present at the time of his offense (§ 667.5, subd. (c)(21)) and that he had a prior strike conviction (§ 1170.12) and a prior felony conviction (§ 667, subd. (a)(1)). Defendant entered his plea with a *Harvey* waiver<sup>2</sup> in exchange for dismissal of the remaining counts and allegations and a stipulated term of 17 years in prison. Pursuant to the plea agreement, the trial court sentenced defendant to the upper term of six years in prison for first degree burglary, doubled for the prior strike, plus five years for the prior felony conviction. Defendant did not request a certificate of probable cause. (§ 1237.5.)

## II

Appointed counsel filed an opening brief setting forth the facts of the case and asking this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing the opening brief. More than 30 days elapsed and we received no communication from defendant.

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<sup>1</sup> Undesignated statutory references are to the Penal Code.

<sup>2</sup> *People v. Harvey* (1979) 25 Cal.3d 754.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

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MAURO, J.

We concur:

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ROBIE, Acting P. J.

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BUTZ, J.